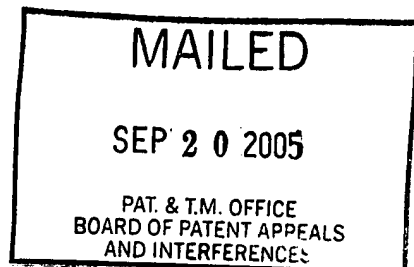




UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Fred E. McKelvey
Telephone: 571-272-9797
Facsimile: 571-273-0042



Applicants: HERRMANN
Application No.: 10/630,552
Filed: 07/29/03
For: Alkylidene complexes of ruthenium containing
N-heterocyclic carbene ligands; use as highly
active, selective catalysts for olefin metathesis

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,364.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/s/ Fred E. McKelvey
FRED E. McKELVEY
Senior Administrative Patent Judge

Mail Stop Interference
P.O. Box 1450
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Paper 1
Filed 20 September 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
Senior Administrative Patent Judge McKelvey

ROBERT H. GRUBBS and TINA M. TRINKA,

Junior Party
(Patent 6,426,419 B1),

v.

WOLFGANG ANTON HERRMANN, WOLFGANG SCHATTENMANN
and THOMAS WESKAMP,

Senior Party
(Application 10/630,552 and)
Application 11/021,967).

Patent Interference No. 105,364
Technology Center 1600

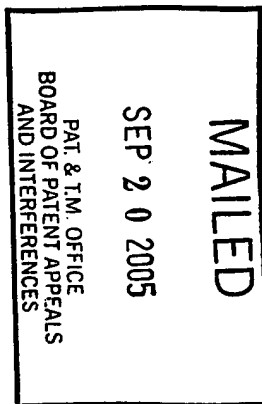
DECLARATION - Bd.R. 203(d)

Before McKelvey, Senior Administrative Patent Judge.¹

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the applications, patent, count and claims designated as corresponding or as not corresponding to the count appear in Parts E and F of this DECLARATION.

¹ As part of Board efforts under the Government Paperwork Elimination Act, signatures on papers originating from the Board are being phased out in favor of a completely electronic record. Consequently, in this case papers originating at the Board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 CFR § 10.18.



Part B. Judge managing the interference

Senior Administrative Patent Judge Fred E. McKelvey has been designated to manage the interference. 37 CFR § 41.104(a) [Bd. R. 104(a)].

Part C. Standing order

A Trial Section STANDING ORDER accompanies this DECLARATION. The STANDING ORDER applies to this interference.

Part D. Initial conference call

A telephone conference call to discuss the interference is set for 13:30 p.m. (Eastern time) on Wednesday, 9 November 2005 (the Board will initiate the call).

No later than **four² business days (i.e., Friday, 4 November 2005)** prior to the conference call, each party shall file and serve by facsimile (STANDING ORDER ¶ 4.5) a list of the motions (Bd. R. 120; Bd. R. 204; STANDING ORDER ¶ 26) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

² Please note that normally the time period is two (2) business days. Given the requirements in Paper 3, the time in this interference is set to four (4) days prior to the conference call.

Part E. Identification and order of the parties

Junior Party

Named inventors: Robert H. Grubbs, South Pasadena, CA
Tina M. Trinko, Pasadena, CA

Patent: U.S. Patent 6,426,419 B1 issued
30 July 2002 based on
application 09/539,840 filed
31 March 2000

Title: Ruthenium metal alkylidene complexes
coordinated with triazolylidene ligands
that exhibit high olefin metathesis
activity

Assignee: California Institute of Technology

Accorded benefit: Provisional application 60/127,469,
filed 31 March 1999

Senior Party

Named Inventors: Wolfgang Anton Herrmann, Germany
Wolfgang Schattenmann, Germany
Thomas Weskamp, Germany

Application: Application 10/630,552
filed 29 July 2003

Title: Alkylidene complexes of ruthenium
containing N-heterocyclic carbene
ligands; use as highly active, selective
catalysts for olefin metathesis

Assignee: Degussa AG

Accorded benefit: Application 09/647,742
filed 27 November 2000
now U.S. Patent 6,635,768 B1
issued 21 October 2003

PCT application PCT/EP99/01785,
filed 18 March 1999³

³ Herrmann also claim priority of German application 198 15 275, filed 06 April 1998. An English language translation of the application has not been found. Accordingly, benefit of the German application is not accorded at this time.

Senior Party

Named Inventors: Wolfgang Anton Herrmann, Germany
Wolfgang Schattenmann, Germany
Thomas Weskamp, Germany

Application: Application 11/021,967
filed 23 December 2004

Title: Alkylidene complexes of ruthenium
containing N-heterocyclic carbene
ligands; use as highly active, selective
catalysts for olefin metathesis

Assignee: Degussa AG

Accorded benefit: Application 09/647,742
filed 27 November 2000
now U.S. Patent 6,635,768 B1
issued 21 October 2003

PCT application PCT/EP99/01785,
filed 18 March 1999⁴

⁴ Herrmann also claims priority of German application 198 15 275, filed 06 April 1998. An English language translation of the application has not been found. Accordingly, benefit of the German application is not accorded at this time.

The senior party is assigned exhibit numbers 1001-1999.
Bd. R. 154(c)(1).

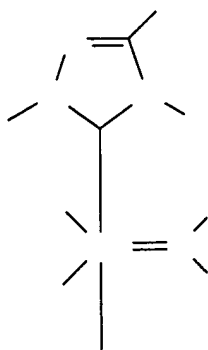
The junior party is assigned exhibit numbers 2001-2999.
Bd. R. 154(c)(1).

The senior party is responsible for initiating settlement
discussions. STANDING ORDER ¶ 18.

Part F. Count and claims of the parties

Count 1

A compound of the formula:



where:

- R₁ is hydrogen [-H] or a hydrocarbon group;
- R₂ is hydrogen [-H] or a hydrocarbon group;
- R₃ is hydrogen [-H] or a hydrocarbon group;
- R₄ is hydrogen [-H] or a hydrocarbon group;
- R₅ is hydrogen [-H] or a hydrocarbon group;
- X₁ is an anionic ligand;
- X₂ is an anionic ligand; and
- L is a ligand selected from the group
consisting of P(cyclohexyl)₃ or P(phenyl)₃,
where P is phosphorus.

The claims of the parties are:

Grubbs 6,426,419:	1-35
Herrmann 10/630,552:	15-46
Herrmann 11/021,967:	1-21

The claims of the parties which correspond to Count 1 are:

Grubbs 6,426,419:	1-35
Herrmann 10/630,552:	15-46
Herrmann 11/021,967:	1-7 and 15-18

The claims of the parties which do not correspond to Count 1
are:

Grubbs 6,426,419:	None
Herrmann 10/630,552:	None
Herrmann 11/021,967:	8-14 and 19-21

Part G. Heading to be used on papers

The heading in STANDING ORDER Form 1 must be used on all papers filed in this interference. See STANDING ORDER ¶ 7.2.1. The administrative patent judge and parties must be indicated as follows:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
Senior Administrative Patent Judge McKelvey

ROBERT H. GRUBBS and TINA M. TRINKA,

Junior Party
(Patent 6,426,419 B1),

v.

WOLFGANG ANTON HERRMANN, WOLFGANG SCHATTENMANN
and THOMAS WESKAMP,

Senior Party
(Application 10/630,552 and)
Application 11/021,967).

Patent Interference No. 105,364
Technology Center 1600

Part H. Order form for requesting file copies

When requesting copies of files, use of STANDING ORDER Form 4 will expedite processing of the request. Please attach a copy of Part E of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Part I. Required paragraph for affidavits and declarations

The Board has recently experienced a rash of cases in which a witness has belatedly advanced reasons why the witness would be unable to appear for cross examination at a reasonable time and place in the United States. Consequently, the Board is requiring the following paragraph to be included on the signature page of all affidavits (including declarations) filed in this case to prevent surprise and hardship to the party relying on the testimony of the witness:

In signing this affidavit/declaration, I recognize that the affidavit/declaration will be filed as evidence in a contested case before the Board of Patent Appeals and Interferences of the United States Patent and Trademark Office. I also recognize that I may be subject to cross examination in the case and that cross examination will take place within the United States. If cross examination is required of me, I will appear for cross examination within the United States during the time allotted for cross examination.

Enc:

Copy of STANDING ORDER (Paper 2)
Copy Grubbs U.S. Patent 6,426,419 B1
Copy Grubbs U.S. Patent 6,624,265 B1
Copy of amendment in application 10/630,552 (1 page)
Copy of application 10/630,552 (specification,
original claims; abstract, bibliographic data sheet)
Copy claims 15-46 in application 10/630,552
Copy of application 11/021,967 (specification,
original claims; abstract, bibliographic data sheet)
Copy claims 1-21 in application 11/021,967
Copy "Remarks" (1 page) in application 10/630,552
Copy Herrmann U.S. Patent 6,635,768 B1
Copy of Office Action mailed 3 June 2005 in
application 10/630,552 (2 pages)
Copy of "Submission of supplemental application data sheet"
in application 10/630,552 (5 pages)
Copy Stevens, "Polymer Chemistry," pages 285-289 (1990)
Copy Collman, "Principles and Applications of
Organotransition Metal Chemistry," pages 591-592
Copy Grubbs provisional application 60/127,469

Revised January 2005

cc (via overnight delivery):

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(real party in interest
California Institute of Technology):

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Attorney for the United States [28 CFR § 0.45(f)]:

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INTERFERENCE DIGEST

Interference No. 105,364

Paper No.

Name: Wolfgang A. Herrmann et al.

Serial No.: 10/630,552

Patent No.

Title: Alkylidene complexes of ruthenium containing N-heterocyclic carbene ligands; use as highly active, selective catalysts for olefin metathesis

Filed: 07/29/03

Interference with Grubbs et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.